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0000026528

BEFORE THE ARIZONA CORPORATION COMMISSION
DOCKETED

NOV 20 2002

WILLIAM A. MUNDELL
CHAIRMAN
JIM IRVIN
COMMISSIONER
MARC SPITZER
COMMISSIONER

DOCKETED BY	ELF
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MICHAEL R. TURNEY,
Complainant,

DOCKET NO. T-01051B-02-0193

vs.

DECISION NO. **65425**

QWEST CORPORATION,
Respondent.

ORDER

Open Meeting
November 19 and 20, 2002
Phoenix, Arizona

BY THE COMMISSION:

On March 1, 2002, Michael R. Turney ("Complainant") filed with the Arizona Corporation Commission ("Commission") a Complaint in which he alleged that Qwest Corporation ("Qwest" or "Respondent") violated Arizona law and the Commission's rules by failing to obey the United States Code Title 47, Chapter 5, Subchapter II, Part I, Section 222(c)(2) ("Section 222") in its handling of his request for customer proprietary network information ("CPNI").

On April 8, 2002, Qwest filed a Motion to Dismiss and Answer to the Complaint.

On April 11, 2002, by Procedural Order, a pre-hearing conference was scheduled for May 2, 2002.

On April 15, 2002, Qwest requested a brief continuance of the pre-hearing because a key representative would be unavailable. Complainant did not object to a short continuance.

On April 24, 2002, by Procedural Order, the pre-hearing conference was continued to May 8, 2002.

On May 3, 2002, Qwest filed a Motion for Summary Judgment together with Supporting Statement of Facts.

On May 8, 2002, at the pre-hearing conference, Mr. Turney appeared in propria persona and

1 Qwest appeared with counsel. Also present was Mr. Bradley G. Morton, a Consumer Service
2 Specialist with the Commission's Utilities Division ("Staff"). Various procedural aspects of the
3 proceeding and a timetable for filing a response to Qwest's Motion for Summary Judgment were also
4 discussed. During a brief recess, the parties discussed a possible resolution of the Complaint herein,
5 but were unable to do so, and indicated that it was possible that they would stipulate to the facts in the
6 proceeding. It was agreed that a 30 day continuance would be taken to allow time for Mr. Morton to
7 investigate how Qwest's response compares to other jurisdictions and some other related issues to the
8 Complaint, after which time he would report back to the parties at the next pre-hearing conference
9 scheduled for June 20, 2002.

10 On May 15, 2002, Mr. Turney filed his response together with his statement of facts in
11 opposition to Qwest's Motion for Summary Judgment.

12 On May 28, 2002, Qwest filed a reply to Mr. Turney's response.

13 On May 31, 2002, Complainant filed a second response to Qwest's Motion for Summary
14 Judgment.

15 On June 11, 2002, Qwest filed a reply to Mr. Turney's second response arguing that his
16 second response was an improper pleading pursuant to the Arizona Rules of Civil Procedure, Rule
17 56(c) and A.A.C. R14-3-101.

18 On June 20, 2002, at the second pre-hearing conference, Mr. Turney appeared and Qwest
19 appeared with counsel. Mr. Morton reported on his findings indicating that Qwest's actions
20 conformed with other providers and the only possible difference might be the charge for research
21 normally charged by Qwest for its service. Subsequently, the parties agreed to the filing of a
22 Stipulated Joint Statement of Facts ("SSOF") together with briefs on the issues accompanied by any
23 disputed facts. They agreed that based on these filings, the Administrative Law Judge would draft a
24 Recommended Order to be submitted to the Commission.

25 On July 10, 2002, Complainant and Respondent filed the SSOF.

26 On July 15, 2002, Mr. Turney and Qwest filed their briefs and related documentation. The
27 matter was then taken under advisement pending submission of a Recommended Order to the
28 Commission.

1 * * * * * * * * *

2 Having considered the entire record herein and being fully advised in the premises, the

3 Commission finds, concludes, and orders that:

4 **FINDINGS OF FACT**

5 1. Pursuant to authority granted by the Commission and at all times herein, Qwest was

6 engaged in the business of providing local exchange telecommunications service to the public in

7 various parts of Arizona.

8 2. On March 1, 2002, Complainant, a resident of Phoenix, Arizona, filed a Complaint

9 against Qwest wherein it was alleged that the Respondent had violated Arizona law and the

10 Commission's rules when it failed to obey what he believed to be a requirement of Section 222.

11 According to Complainant, on or about May 25, 2001, he made a written request for information to

12 Qwest, and Qwest failed to disclose what he alleged was his CPNI. Mr. Turney further alleged that

13 Qwest had demanded that he subpoena the information which he was seeking and that this resulted in

14 a five week delay in his attempts to locate "his endangered, runaway 17 year old daughter"¹ who had

15 called his Phoenix, Arizona residence from a payphone in California.

16 3. Mr. Turney requests an Order from the Commission directing Qwest to establish a

17 "corporate policy" to provide a customer/parent with his child's CPNI upon submission of a written

18 request with proof that they have a runaway child. He is also seeking what he terms "exemplary

19 damages" because of what he terms Qwest's willful denial of CPNI based on its marketing practices.

20 4. On April 8, 2002, Qwest filed a Motion to Dismiss and Answer to the Complaint.

21 Therein, Qwest denied the allegations, citing a number of legal defenses and pointing out that the

22 CPNI information sought by Mr. Turney had not been his, but that of his daughter who had called his

23 local telephone number in Phoenix, Arizona. His daughter had been the customer of the phone

24 provider and local exchange carrier serving the payphone in California along with the interexchange

25 carrier involved in the transport of her call. Qwest merely provided its services as the terminating

26 carrier to Mr. Turney's residence.

27 _____

28 ¹ Mr. Turney also complained of what he believed to be an exorbitant fee, \$350 per day, which Qwest charged to search out this information. However, this is a moot issue here since Qwest subsequently waived this fee in Mr. Turney's case.

1 5. On May 3, 2002, Qwest also filed a Motion for Summary Judgment, which was
2 responded to by Mr. Turney on May 15, 2002.

3 6. Following two pre-hearing conferences, it was agreed between the parties that they
4 would file the SSOF together with its exhibits, which is attached hereto and marked Exhibit A and
5 incorporated herein by reference. Complainant and Respondent also agreed to file accompanying
6 briefs in support of their respective positions together with any additional disputed facts which either
7 the Complainant or the Respondent believe supports their respective positions. The additional
8 disputed facts would then be reviewed by the presiding Administrative Law Judge and adopted herein
9 if deemed relevant.

10 7. In addition to those facts set forth in Exhibit A in the SSOF, as proposed by the
11 parties, these additional facts will also be considered in this proceeding:

12 Turney

13 A. On May 17, 2001, Ms. Turney, age 17, ran away from her father's home in
14 Phoenix, Arizona;

15 B. On May 24, 2001, Mr. Turney was the custodial parent of his minor child, Ms.
16 Turney;

17 C. Ms. Turney is an identified learning impaired student under the Individuals With
18 Disabilities Education Act ("IDEA") and the Americans with Disabilities Act
19 ("ADA");

20 Qwest

21 A. The information Complainant requested was not a record kept by Qwest in the
22 normal course of its business with respect to Complainant's telecommunications
23 services because customers are not billed for non-toll calls. If a customer was
24 looking for identification of a toll call billed to his number, Qwest could have
25 provided it to him because it already would have existed as part of his billing
information. When information does not exist as a toll record, Qwest must search
for and assemble its own raw data. Exhibit A-1, Affidavit of Lynn M. Appello;

26 B. Qwest charges \$350 per subject telephone number per day for which the data is
27 produced to recover the system costs Qwest incurs when it searches for and
28 assembles this information. Exhibit A-1, Affidavit of Lynn M. Appello;

1 C. If the call originated from a payphone, then the call is exempt from the Federal
2 requirement to pass Calling Party Number ("CPN") when feasible. Exhibit A-5,
3 Amended Affidavit of Craig Wiseman;

4 D. During the May 8, 2002, pre-hearing conference in this matter, the Administrative
5 Law Judge asked Mr. Bradley G. Morton, a Consumer Service Specialist with the
6 Commission, to investigate "some of the issues that have arisen in this
7 proceeding." TR at 10-11 (May 8, 2002); and

8 E. During the June 20, 2002, pre-hearing conference, Mr. Morton reported to the
9 Administrative Law Judge regarding his findings. He stated that he had talked "to
10 the National Association for Missing and Exploited Children at their headquarters .
11 . . . and they confirmed that the process that information is received, such as with
12 Qwest through the subpoena, is standard throughout the United States."
13 Additionally, Mr. Morton stated that the California Office of the National
14 Association of Missing and Exploited Children and Sergeant White of the Phoenix
15 Police Department confirmed the same procedure and that all parties involved
16 "seemed to feel that the procedures are absolutely conforming to all standards."
17 TR at 4. (June 20, 2002).

18 8. Based on the SSOF and the additional findings proposed by the Complainant together
19 with his brief, that Complainant believes that some sort of review is necessary by the Commission of
20 Section 222 and that specific local rules pertaining to "scenarios like mine" should be adopted.

21 9. Mr. Turney relies largely upon the doctrine of *Parens Patriae*, an old English concept,
22 with respect to the power of guardianship of a person under disability as to why Qwest should have
23 complied with his immediate request for information on his daughter's CPNI.

24 10. In its brief, Respondent argues that the SSOF supports its arguments that the
25 Complainant fails to specify any action or inaction on the part of Qwest which violates Arizona law,
26 the Commission's Orders or the Commission's Rules.

27 11. Additionally, Qwest points out that Section 222 does not require Qwest to disclose
28 CPNI, without the approval of the customer, Ms. Turney, except as otherwise provided by law or
unless certain exceptions apply.

12. The record establishes that Qwest has adopted a policy in order to implement Section
222 that requires legal process, such as a subpoena or a request from a law enforcement agency,
before it will release another person's CPNI as required by the Telecommunications Act of 1996, and
it also balances the party's privacy interest with other parties' interest in access to proprietary
information.

1 13. There is no evidence that Qwest is in violation of Arizona law or the Commission's
2 Orders or its rules by requiring legal process to be instituted to release the CPNI of a minor as was
3 the case in this instance.

4 14. Although the Commission has adopted no rules with respect to the protection of the
5 release of CPNI by a telecommunications carrier, it has begun to study this issue in the generic
6 docket, Docket No. RT-00000J-02-0066.

7 15. Qwest argued that the CPNI of a minor is protected as private information by the
8 United States and Arizona Constitutions, and that a minor's parent would not have a right to custodial
9 control of a minor's CPNI absent judicial process or police intervention.

10 16. As was pointed out by Qwest in its brief, "Constitutional rights do not mature and
11 come into being only when one attains the state defined age of majority. Minors, as well as adults,
12 are protected by the Constitution and possess Constitutional rights." Planned Parenthood of Central
13 Missouri v. Danforth, 428 U.S. 52, 74 (1976). Additionally, Qwest cited a number of other cases
14 which established that Mr. Turney's daughter enjoyed certain fundamental protections, including the
15 right to privacy and property.

16 17. Exhibits to the SSOF, a letter from the Chief of the FCC's Consumer Information
17 Bureau and a letter from the Chief Counsel for the Commission's Legal Division, are in agreement
18 and support Qwest's argument that Ms. Turney's CPNI was a protected right and that Mr. Turney
19 would have to utilize legal process to secure its release. Their letters further indicate that while
20 Section 222 does not prohibit the disclosure of a customer's CPNI, the telecommunications carrier is
21 not required to disclose the customer's CPNI.

22 18. According to Qwest's brief, at the time of Mr. Turney's initial request for CPNI
23 information, Qwest was without information to determine: whether the calling party was Mr.
24 Turney's daughter; whether she was minor; whether the calling party was a runaway; and whether
25 Mr. Turney had custodial rights over the calling party. Qwest also argued that it is not the best party
26 to make a determination with respect to these forms of requests and believes that the best parties to
27 make these determinations are either the police or the courts.

28 19. Qwest proposes that the Commission's generic docket, Docket No. RT-00000J-02-

0066 is the "more appropriate forum" where the problem encountered by Mr. Turney can be addressed and appropriate rules be adopted, if the Commission believes it is necessary.

20. Based upon our review of the SSOF and the arguments made by the parties in their briefs and additional proposed findings, we do not believe that the Complainant has met his burden of proof to establish that Qwest was in violation of any Arizona law, Commission Orders or the Commission's rules.

21. The Commission does not award monetary damages as sought by Mr. Turney since Arizona courts have long held that the Commission does not have the power to award money damages as it is a judicial power vested in the courts. See Easton v. Broomfield, 116 Ariz. 576, 582, 570 P.2d 744, 750 (1977) and Trico Electric Cooperative v. Ralston, 67 Ariz. 358, 363, 196 P.2d 470 (1948).

22. We believe that while the current situation resulting in delays in securing CPNI may be undesirable in this and other instances, it protects the individual customer's right to privacy, which we consider to be of the utmost importance. However, Staff should examine whether this issue should be included in the generic docket on CPNI.

CONCLUSIONS OF LAW

1. Qwest is a public service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. § 40-246.

2. The Commission has jurisdiction over Qwest and the Complaint herein.

3. There is no evidence that Qwest violated its tariff on file with the Commission or that there have been any other violations of any Commission Orders, the Commission's Rules or Arizona law.

4. Staff should examine whether the issue raised herein should be examined in the Commission's generic docket, Docket No. RT-00000J-02-0066.

5. The Complaint of Mr. Turney should be dismissed.

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ORDER

IT IS THEREFORE ORDERED that the Complaint of Mr. Michael R. Turney in the above-captioned matter be, and is hereby, dismissed.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.


CHAIRMAN
COMMISSIONER
COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 20th day of November, 2002.


BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT _____

MES:mlj

65425

1 SERVICE LIST FOR:

MICHAEL R. TURNEY v. QWEST CORPORATION

2 DOCKET NO.

T-01051B-02-0193

3
4 Michael R. Turney
17217 N. 34th Street
Phoenix, AZ 85032

5
6 Timothy Berg
Theresa Dwyer
Fennemore Craig, P.C.
7 3003 North Central Avenue, Ste. 2600
Phoenix, AZ 85012-2913

8
9 Christopher Kempley, Chief Counsel
Legal Division
10 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

11
12 Ernest Johnson, Director
Utilities Division
ARIZONA CORPORATION COMMISSION
13 1200 West Washington Street
Phoenix, Arizona 85007

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EXHIBIT A

65425

Decision No. _____

BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED

JUL 10 2002

ARIZONA CORPORATION COMMISSION
HEARING DIVISION

WILLIAM A. MUNDELL
Chairman
JIM IRVIN
Commissioner
MARC SPITZER
Commissioner

MICHAEL R. TURNEY,
Turney,

vs.

QWEST CORPORATION,
Respondent.

DOCKET NO. T-01051B-02-0193

STIPULATED JOINT STATEMENT OF
FACTS

Complainant Michael R. Turney ("Turney") and Respondent Qwest Corporation ("Qwest") hereby submit the following joint stipulated statements of facts for consideration. The parties have discussed and negotiated certain facts (as set forth below), which they agree should be considered by the Hearing Officer. However, the parties were unable to agree on other facts that each believes are relevant for purposes of reaching a determination in this matter. Consequently, each party will submit for consideration its own separate statement of the additional relevant and material facts, which remain in dispute, as a distinct section of its own brief due on July 15, 2002, for consideration.

STIPULATED STATEMENT OF FACTS

Turney and Qwest hereby submit the stipulated statement of facts as agreed upon by both parties.

1. Turney was a Qwest customer from September 1, 2000 through December 3, 2001. During all or part of that period, Turney subscribed to residential landline service with Qwest, including Call Waiting and Wire Maintenance services, and wireless service. See Exhibit 1, Affidavit of Ann Fry, ¶¶ 3-4.

. . .

1 2. On or about May 25, 2001, Turney contacted Qwest and requested the phone
2 number and location for an incoming call from his daughter. *See* Complaint, Undisputable Facts
3 of the Case, ¶ 2 and Body of Text, ¶ 3.

4 3. On or about May 25, 2001, Qwest advised Turney that a subpoena or a request
5 from law enforcement is required before Qwest would provide the calling party's information to
6 Turney. *See* Exhibit 2, Affidavit of Diane Barnes, ¶ 4 and Complaint, Body of Text, ¶ 4.

7 4. The Phoenix Police Department declined to assist Turney in obtaining the calling
8 party information. Complaint, Body of Text, ¶ 4.

9 5. On May 30, 2001, Turney filed a Civil Complaint in Northeast Phoenix Justice
10 Court against Qwest alleging a breach of contract because Qwest would not provide him certain
11 records without a subpoena. *See* Exhibit 3, and Complaint, Undisputable Facts of the Case, ¶ 7.

12 6. On June 7, 2001, the Northeast Phoenix Justice Court issued a Civil Subpoena
13 Duces Tecum ordering Qwest to submit all incoming and outgoing numbers for Account No. 602-
14 652-1177-262 (the "Account") for May 2001. *See* Exhibit 4 and Complaint, Body of Text, ¶ 4.

15 7. Qwest was served the subpoena on June 12, 2001. *See* Exhibit 5.

16 8. Qwest contacted Turney on or about June 13, 2001 and told Turney that the
17 information would cost \$350 per twenty-four-hour period per telephone number. *See* Exhibit 2,
18 Affidavit of Diane Barnes, ¶ 5, and Complaint, Body of Text, ¶¶ 4 and 6.

19 9. Turney agreed to narrow his request to May 17 and 24, 2001 and granted Qwest
20 "time beyond June 15, 2001" to respond to the civil subpoena. *See* Exhibit 6 and Complaint,
21 Body of Text, ¶ 6.

22 10. Automated Message Account ("AMA") records include, among other things, the
23 date a call was placed, the originating phone number, and the terminating phone number. The
24 AMA records do not include the physical location of the originating call. *See* Exhibit 7, Affidavit
25 of Lynn M. Appello, ¶ 7, and Exhibit 8.

26 . . .

1 11. Qwest provides law enforcement AMA records upon request. Qwest only bills
2 after the first 24-hour period. After that, the charge is \$350.00 for each 24 hours. Law
3 enforcement requests may be expedited if the law enforcement personnel notify Qwest that it is
4 an emergency. *See* Exhibit 7, Affidavit of Lynn M. Appello, ¶ 8 and Exhibit 9.

5 12. On June 13, 2001, Qwest told Turney that the information would include the
6 originating and terminating telephone numbers. *See* Exhibit 2, Affidavit of Diane Barnes, ¶ 6.

7 13. As supported by letter dated June 29, 2001, Qwest agreed to waive its \$350 charge
8 for both requested days. *See* Exhibit 10, and Complaint, Conclusion, 2nd ¶ 9.

9 14. On June 29, 2001, Qwest submitted AMA records for the Account for May 24,
10 2001 to the Northeast Phoenix Justice Court via overnight mail. *See* Exhibit 10 and Exhibit 2,
11 Affidavit of Diane Barnes, ¶ 7.

12 15. On July 2, 2001, Qwest submitted AMA records for the Account for May 17, 2001
13 via overnight mail. *See* Exhibit 11 and Exhibit 2, Affidavit of Diane Barnes, ¶ 7.

14 16. On August 2, 2001, the Northeast Phoenix Justice Court awarded Turney monetary
15 judgment of costs totaling \$67.00, which included the cost of filing the Complaint and the
16 subpoena. *See* Exhibit 12 and Complaint, Undisputable Facts of the Case, ¶ 20.

17 17. In a letter dated August 29, 2001, Turney complained about Qwest's actions to the
18 Arizona Corporation Commission (the "Commission"). The letter concerned Qwest's alleged
19 "failure to furnish complete consumer services as set forth by U.S.C. Title 47, Section 222,
20 Privacy of Customer Information AND setting the cost of \$350.00 per day for phone numbers
21 called to a residence to deter consumer requests." *See* Exhibit 13.

22 18. In response to a request from the Commission's Legal Division ("Legal
23 Division"), on October 25, 2001, Qwest submitted its reply to the Legal Division regarding its
24 practice concerning the release of caller identification data as specifically applied to Turney's
25 matter. *See* Exhibit 14.

26 . . .

1 19. On December 18, 2001, the Legal Division responded to Turney's inquiries to the
2 Commission and stated that they "have determined that Commission Staff should take no action
3 on your complaint." See Exhibit 15.

4 20. The affidavits Qwest submitted with its motion for summary judgment in this
5 proceeding were dated May 1, 2, and 3, 2001. See Exhibits 1, 2, 7, 19.

6 21. In the December 18, 2001 letter, in response to Turney's argument that Qwest's
7 S350 charge is excessive, the Legal Division stated, "[t]his charge is not regulated by the
8 Commission, but does not appear to be unreasonable given the nature of the necessary research.
9 In any event, it appears the issue is moot as it applies to you, since Qwest waived its charge in
10 your case." See Exhibit 15.

11 22. In the December 18, 2001 letter, in response to Turney's concern that the
12 information is in fact collected but collected by someone other than Qwest, the Legal Division
13 stated regarding the correspondence in question, "[t]he letter itself, and subsequent letters from
14 Qwest counsel, make clear that the information is not kept by Qwest in its ordinary course of
15 business, and must therefore be searched for and assembled upon request. The letter appears to
16 mean that the information must be developed since it isn't kept in the ordinary course of business,
17 not that the information is collected by someone other than Qwest." See Exhibit 15.

18 23. In the December 18, 2001 letter, in response to Turney's belief that federal law
19 required Qwest to provide caller information to persons in Turney's circumstances, the Legal
20 Division disagreed as to Turney's interpretation of the applicable federal law. The letter stated,

21 [The] language means only that the carrier is not *prohibited* from
22 disclosing information, not that the carrier has any duty to disclose
23 information. . . In summary, the statute allows *but does not*
24 *require* the carrier to disclose information to parents when the
25 child calls from a mobile telephone and is at risk of death or
26 serious physical harm. This is the plain meaning of the statute.
Because the statute permits rather than requires the carrier to
release information, and because the purpose of the statute is the
protection of privacy, it doesn't seem unreasonable for Qwest to
err on the side of caution when considering requests. Requiring a
subpoena tends to promote the statute's purpose of protecting

1 privacy, while still allowing a means of access. . .

2 The federal statute seeks to protect persons from unwanted
3 disclosure of location or phone number. There are circumstances
4 where this protection is imperative. For instance in the case of
5 abused spouses and children. Qwest has given the protection of
6 these individuals great weight. Unfortunately, this protection has
7 worked against you in your circumstance and that is regrettable.
8 However, given the delicate balancing required to meet competing
9 concerns of privacy versus information access, it appears that
10 Qwest's policies and procedures are appropriate.

11 See Exhibit 15.

12 24. On August 30, 2001, Turney sent a letter to Congressman John Shadegg regarding,
13 among other things, the authority Qwest has to "violate FCC and Privacy laws to listen in and
14 retain such information." The letter also stated "[i]t is clear that Qwest violated [47 U.S.C. § 222]
15 when they refused to furnish me the number my daughter called from." See Exhibit 16.

16 25. On September 4, 2001, Congressman Shadegg contacted the Federal
17 Communication Commission ("FCC") and requested that it address Turney's concerns. See
18 Exhibit 17.

19 26. On October 3, 2001, the Chief of the Consumer Information Bureau at the FCC
20 responded to Congressman Shadegg. The letter stated, "[t]he provisions described in U.S.C. Title
21 47, Section 222, Privacy of Customer Information, protects your constituent's privacy rights, it
22 does not require a telecommunications carrier to provide information pertaining to callers to his
23 residence. Information as such must be requested through a subpoena by court or enforcement
24 order." See Exhibit 18.

25 27. Turney does have access to the Last Call Return (*69) service pursuant to the
26 tariffed rates. See Exhibit 1, Affidavit of Ann Fry, ¶ 5.

27 28. Qwest's network does temporarily store telephone number information in the
28 Calling Party Number ("CPN") parameter of its signaling system 7 messages and such
29 information is sometimes available to subscribers of last call return. See Exhibit 19, Affidavit of
30 Craig Wiseman, ¶ 4.

1
2 Date: July 9, 2002, 2002

3
4 By: Michael R. Turney
Michael R. Turney

Date: July 9, 2002

By: Anne N. Christenson
Timothy Berg
Theresa Dwyer
Anne N. Christenson
FENNEMORE CRAIG, P.C.
3003 North Central Avenue, Suite 2600
Attorneys for Respondent
QWEST CORPORATION

8 An original and 10 copies
9 of the foregoing was delivered this 10th
10 day of July, 2002, to:

11 Docket Control
12 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

13 A copy of the foregoing
14 was hand-delivered this 10th day of
July, 2002, to:

15 Christopher Kempley
16 Legal Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
17 Phoenix, Arizona 85007

18 Marc Stern, Administrative Law Judge
19 Hearing Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
20 Phoenix, Arizona 85007

21 A copy of the foregoing
22 was mailed this 10th day of
July, 2002, to:

23 Michael R. Turney
24 17217 N. 34th Street
Phoenix, Arizona 85032

25 By: Anne N. Christenson
26

EXHIBIT A-1

65425

Decision No. _____

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BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL

Chairman

JIM IRVIN

Commissioner

MARC SPITZER

Commissioner

MICHAEL R. TURNEY,

Complainant,

vs.

QWEST CORPORATION,

Respondent.

DOCKET NO. T-01051B-02-0193

AFFIDAVIT OF ANN FRY

STATE OF ARIZONA)

County of Maricopa)

) ss.

Ann Fry, being first duly sworn upon her oath deposes and says that:

1. I am a manager in the Policy and Law Organization at Qwest Corporation ("Qwest") with 23 years of service. I am knowledgeable of the tariffs on file with the Arizona Corporation Commission. I have access to customer records and other Qwest databases that provide information concerning rates, methods and procedures.

2. I have reviewed the account, 602 652-1177, for Michael R. Turney, the complainant (hereinafter "Complainant"), and have confirmed the dates of Complainant's service with Qwest at 17217 N. 34th Street, Phoenix, Arizona. In addition, I have confirmed the types of services Complainant received from Qwest.

3. On September 1, 2000, Complainant activated residential landline service with Qwest. He subscribed to Call Waiting and Wire Maintenance services. On November 18, 2000, Complainant added wireless service with Home Office Link and Call Waiting. On November 1, 2001, Complainant disconnected wireless service. On November 21, 2001, Complainant requested disconnection of the landline service with Qwest. The service was disconnected on

1 December 3, 2001. Attached are the relevant customer service records related to Complainant's
2 service.

3 4. On January 24, 2002, Complainant reactivated landline service at 17217 N. 34th
4 Street, Phoenix, Arizona, with Qwest, reusing telephone number 602 652-1177. The service
5 included the CustomChoice Package (i.e., residential line, Call Waiting Caller ID, Anonymous
6 Call Rejection, 3-Way Conferencing, Call Forwarding, Last Call Return, Continuous Redial and
7 Call Rejection).

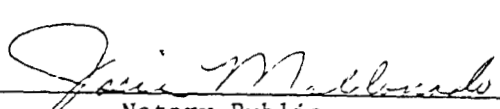
8 5. Complainant does have access to the Last Call Return (*69) service pursuant to the
9 tariffed rates.

10 Affiant has read the foregoing Affidavit, knows the contents thereof, and states that the
11 foregoing is true according to her best knowledge, information, and belief.

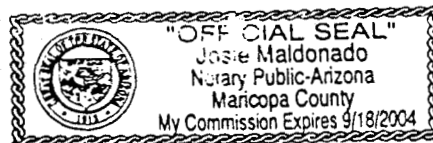
12 DATED this 3rd day of May, 2002.

13
14 
15 ANN FRY

16 SUBSCRIBED AND SWORN TO before me this 3rd day of May, 2002.

17
18 
19 Notary Public
My Commission Expires:

20 9/18/2004



Received 04/29, 2 12:04PM in 03:54 on line [2] for ACHRIST Pg 3/21
APR 29 2002 12:05 FR QWES, 602 235 3107 TO 99165678
CMD MSG

P.03

CSR

P 1 S 1

ACCT: 602 652 1177 262

PROCESS DATE: 09-12-00

602 652 1177 262

CSR DATE: 09-12-00

BUI:

STATE: 1

EXCHANGE: PNK

SIC-MCC:

PCL:

CLS SVC: 1FR

---LIST

LN

TURNEY, MICHAEL

LA

17217 N 34 ST, PHOENIX

---BILL

MCN

XXXAHXXXXXU

SS

526-72-1225N

CBR

602 795-6169

BN1

MICHAEL TURNEY

BA1

17217 N 34 ST

PO

85032 PHOENIX AZ

/TAR BK

CRV

024111699-B00511

---S&E

ORIG SERV ESTAB 9-1-00

9 900 9999

1FR /MTN/PIC 0288/LPIC 0288

13.18 13.18

9 100 7262

PORXX/MTN

.43 .43

9 100 7262

OWM /MTN

3.90 3.90 N

F1-MENU

F2=BILL

F3=PRINT

F4=SVC ORD

F5=CSR

F6=PREV

F7=NEXT

F8=NOTE

F9=PYMT REG

F10=USAGE

F11=F/B

F12=BILL STAT

65425

Decision No.

Received 04/29, 2 12:04PM in 03:54 on line (2) for ACHRIST Pg 4/21
APR 29 2002 12:05 FR QWES, 602 235 3107 TO 99165678
CMD MSG

P.04

CSR
ACCT: 602 652 1177 262
9 100 7262

ESX /MTN

P 1 S 2
PROCESS DATE: 09-12-0
5.00 5.00

F1=MENU
F7=NEXT

F2=BILL
F8=NOTE

F3=PRINT
F9=PYMT REG

F4=SVC ORD
F10=USAGE

F5=CSR
F11=F/B

F6=PREV
F12=BILL STAT

65425

Decision No. _____

Received 04/29, 2 12:04PM in 03:54 on line [2] for ACHRIST Pg 5/21
APR 29 2002 12:05 FR QWES, 602 235 3107 TO 99165678

P.05

CMD

MSG

CSR

ACCT: 602 652 1177 262
9 100 7262

9LM /MTN

P 2 S 1
PROCESS DATE: 09-12-00
4.35 4.35

NOS 1

SUBTOTAL SUBJECT TO FEDERAL TAX	22.96
SUBTOTAL NOT SUBJECT TO FEDERAL TAX	3.90
TOTAL EXCLUDING TAX	26.86

F1=MENU
F7=NEXT

F2=BILL
F8=NOTE

F3=PRINT
F9=PYMT REG

F4=SVC ORD
F10=USAGE

F5=CSR
F11=F/B

F6=PREV
F12=BILL STAT

65425

Decision No. _____

Received 04/29, 2 12:04PM in 03:54 on line [2] for ACHRIST Pg 6/21
APR 29 2002 12:05 FR QWES: 602 235 3107 TO 99165678
CMD MSG

P.06

CSR

P 1

S 1

ACCT: 602 652 1177 262

PROCESS DATE: 05-24-01

602 652 1177 262

CSR DATE: 05-24-01

BUI:

STATE: 1

EXCHANGE: PNK

SIC-MCC:

PCL:

CLS SVC: 1FR

---LIST

LN TURNER, MICHAEL

LA 17217 N 34 ST, PHOENIX

---BILL

MCN XXXAHXXXXXP

SS 526-72-1225N

CBR 602 795-6169

BN1 MICHAEL TURNER

BA1 17217 N 34 ST

PO 85032 PHOENIX AZ /TAR BK

CRV 024111699-B00511

CJM

---S&E

ORIG SERV ESTAB 9-1-00

4 401 1890 652-1177

1FR /MTN/TN 602 652-1177

13.18

13.18

/PIC NONE/LPIC 9199

F1=MENU

F2=BILL

F3=PRINT

F4=SVC ORD

F5=CSR

F6=PREV

F7=NEXT

F8=NOTE

F9=PYMT REG

F10=USAGE

F11=F/B

F12=BILL STAT

65425

Decision No. _____

Received 04/29, 2 12:04PM in 03:54 on line (2) for ACHRIST. Pg 7/21
APR 29 2002 12:05 FR QWES, 602 235 3107 TO 99165678
CMD

P.07

MSG

CSR

P 1

S 2

ACCT: 602 652 1177 262

PROCESS DATE: 05-24-01

111800 4171 670-3598

WAL /MTW/WSP MTW/TN 602 670-3598

.00

.00

F1=MENU

F2=BILL

F3=PRINT

F4=SVC ORD

F5=CSR

F6=PREV

F7=NEXT

F8=NOTE

F9=PYMT REG

F10=USAGE

F11=F/B

F12=BILL STAT

65425

Decision No. _____

CMD

MSG

CSR

P 2

S 1

ACCT: 602 652 1177 262

PROCESS DATE: 05-24-01

	/TBR A/PIC 0718/LPIC 9199		
111800 4171 652-1177	PORXX/MTN/TN 602 652-1177	.43	.43
111800 4171 652-1177	OWM /MTN/TN 602 652-1177	4.75	4.75
9 100 7262	ESX /MTN	5.00	5.00
111800 4171 652-1177	9PZLX/MTN/TN 602 652-1177	.38	.38
111800 4171 652-1177	9LM /MTN/TN 602 652-1177	4.35	4.35
111800 4171 670-3598	WBD /MTW/WSP MTW/TN 602 670-3598	.00	.00
111800 4171 670-3598	WWC /MTW/WSP MTW/TN 602 670-3598	.00	.00
111800 4171 670-3598	ROE24/MTW/WSP MTW/TN 602 670-3598	.00	.00
52401 3803*670-3598	WPE50/MTW/WSP MTW/TN 602 670-3598	.00	.00
3 701 0420 670-3598	WPPPK/MTW/WSP MTW/TN 602 670-3598	.00	.00

NOS 2

TOTAL EXCLUDING TAX

28.09

F1=MENU

F2=BILL

F3=PRINT

F4=SVC ORD

F5=CSR

F6=PREV

F7=NEXT

F8=NOTE

F9=PYMT REG

F10=USAGE

F11=F/B

F12=BILL STAT

Decision No. 65425

ACCT: 602 652 1177 262
602 652 1177 262
BUI: STATE: 1 EXCHANGE: PNX
SIC-MCC: PCL: CLS SVC: 1FR

CSR

P 1 S 1

PROCESS DATE: 07-12-01

CSR DATE: 07-12-01 RATE CHANGE

---LIST

LN TURNEY, MICHAEL
LA 17217 N 34 ST, PHOENIX

---BILL

MCN XXXAHXXXXXP
SS 526-72-1225N
CBR 602 795-6169
BN1 MICHAEL TURNEY
BA1 17217 N 34 ST
PO 85032 PHOENIX AZ /TAR BK
CRV 024111699-B00511
CJM

---S&E

52501 9999 652-1177 1FR /MTN/TN 602 652-1177 13.18 13.18
/PIC 0288/LPIC 0288

F1=MENU F2=BILL F3=PRINT F4=SVC ORD F5=CSR F6=PREV
F7=NEXT F8=NOTE F9=PYMT REG F10=USAGE F11=F/B F12=BILL STAT

65425

Decision No. _____

Received 04/29/2002 12:04PM in 03:54 on line [2] for ACHRIST. Pg 10/21
APR 29 2002 12:05 FR QWESI 602 235 3107 TO 99165678

P.10

CMD

MSG

CSR

P 1 S 2

ACCT: 602 652 1177 262

PROCESS DATE: 07-12-0

111800 4171 670-3598

WAL /MTW/WSP MTW/TN 602 670-3598

.00 .00

F1=MENU
F7=NEXT

F2=BILL
F8=NOTE

F3=PRINT
F9=PYMT REG

F4=SVC ORD
F10=USAGE

F5=CSR
F11=F/B

F6=PREV
F12=BILL STAT

65425

Decision No. _____

CMD

MSG

CSR

P 2 S 1

ACCT: 602 652 1177 262

PROCESS DATE: 07-12-01

	/TBE A/PIC 0718/LPIC 9199		
111800 4171 652-1177	PORXX/MTN/TN 602 652-1177	.43	.43
111800 4171 652-1177	OWM /MTN/TN 602 652-1177	4.75	4.75
9 100 7262	ESX /MTN	5.00	5.00
111800 4171 652-1177	9PZLX/MTN/TN 602 652-1177	.56	.56
111800 4171 652-1177	9LM /MTN/TN 602 652-1177	5.00	5.00
111800 4171 670-3598	WBD /MTW/WSP MTW/TN 602 670-3598	.00	.00
111800 4171 670-3598	WWC /MTW/WSP MTW/TN 602 670-3598	.00	.00
111800 4171 670-3598	ROE24/MTW/WSP MTW/TN 602 670-3598	.00	.00
52401 3803 670-3598	WPB50/MTW/WSP MTW/TN 602 670-3598	.00	.00
3 701 0420 670-3598	WPPPK/MTW/WSP MTW/TN 602 670-3598	.00	.00

NOS 2

TOTAL EXCLUDING TAX

28.92

F1=MENU

F2=BILL

F3=PRINT

F4=SVC ORD

F5=CSR

F6=PREV

F7=NEXT

F8=NOTE

F9=PYMT REG

F10=USAGE

F11=F/B

F12=BILL STAT

Decision No. 65425

CMD

MSG COMMAND COMPLETED(I210)

602 652 1177 262

DEC 22 01 *CSR FIN-I P

1 2

PNX 1FR

MICHAEL TURNEY

/1

PSO 5

XSBN 1 602 652-1177 /CS 1FR

---LIST

LN TURNEY, MICHAEL

LA 17217 N 34 ST, PHOENIX

---BILL

MCN XXXAHXXXXXP

SS 526-72-1225N

CBR 602 795-6169

CBN1 MICHAEL TURNEY

CBA1 17217 N 34 ST

CPO 85032 PHOENIX AZ /TAR BK

CRV 024111699-B00511

---S&E

ORIG SERV ESTAB 9-1-00

112801 9999 652-1177

1FR /MTN/TN 602 652-1177

13.18

13.18

/PIC 0288/LPIC 0288

112801 4171 652-1177

PORXX/MTN/TN 602 652-1177

.43

.43

112801 4171 652-1177

OWM /MTN/TN 602 652-1177

4.75

4.75

RP NOTATION

TYPE PN ACT FU BD

1201

65425

Decision No. _____

Received 04/25 12 12:04PM in 03:54 on line [2] for ACHRIS: Pg 13/21
APR 29 2002 12:05 FR QWES, 602 235 3107 TC 99165678
CMD MSG COMMAND COMPLETED(I210)

P.13

602 652 1177 262 DEC 22 01 *CSR FIN-I P 2 2 PNX 1PR
MICHAEL TURNEY /1 PSO 5

9 100 7262	ESX /MTN	5.00	5.00
112801 4171 652-1177	9PZLX/MTN/TN 602 652-1177	.56	.56
112801 4171 652-1177	9LM /MTN/TN 602 652-1177	5.00	5.00

NOS 1

TOTAL EXCLUDING TAX

28.92

RP NOTATION

TYPE PN ACT FU BD
1201

65425

Decision No. _____

APR 29 2002 12:07 Received 04/25 12 12:04PM in 03:54 on line [2] for ACHRIS: Pg 14/21
CMD 602 235 3107 TU 99165678

P.14

MSG

CSR

P 1 S 1

ACCT: 602 652 1177 365

PROCESS DATE: 01-24-0

602 652 1177 365

CSR DATE: 01-24-02

NEW CONNECT

BUI:

STATE: 1

EXCHANGE: PNX

SIC-MCC:

PCL:

CLS SVC: 1FR

---LIST

LN TURNEY, MICHAEL
LA 17217 N 34 ST, PHOENIX

---DIR

DEL NONE

---BILL

MCN XXXAHXXXXXU
SS 526-72-1225N
CBR 602 652-1177
BN1 MICHAEL TURNEY
BA1 17217 N 34 ST
PO 85032 PHOENIX AZ /TAR BK
CRV PSR6026521177-B
CBE ((N))

---S&E

ORIG SERV ESTAB 1-24-02

F1=MENU

F2=BILL

F3=PRINT

F4=SVC ORD

F5=CSR

F6=PREV

F7=NEXT

F8=NOTE

F9=PYMT REG

F10=USAGE

F11=F/B

F12=BILL STAT

65425

Decision No. _____

Received 04/29, J2 12:04PM in 03:54 on line [2] for ACHRIS1 Pg 15/21
APR 29 2002 12:07 FR QWEST 602 235 3107 TO 99165678

P.15

CMD

MSG

CSR

P 1 S 2

ACCT: 602 652 1177 365

PROCESS DATE: 01-24-02

12402 8365*

1FR /MTN/RIE/PIC 0288/LPIC 0288

.00 .00

F1=MENU
F7=NEXT

F2=BILL
F8=NOTE

F3=PRINT
F9=PYMT REG

F4=SVC ORD
F10=USAGE

F5=CSR
F11=F/B

F6=PREV
F12=BILL STAT

CMD

MSG

CSR

ACCT: 602 652 1177 365

F 2

S 1

PROCESS DATE: 01-24-02

	/NMC		
12402 8365*	PORXX/MTN	.43	.43
12402 8365*	AYK /MTN	.00	.00
12402 8365*	9PZLX/MTN	.56	.56
12402 8365*	ESC /MTN/RIE	.00	.00
12402 8365*	ESM /MTN/RIE	.00	.00
12402 8365*	PGOCC/MTN	32.95	32.95
12402 8365*	KSTWB/MBU/D	.00	.00
12402 8365*	NNK /MTN/RIE	.00	.00
12402 8365*	NSQ /MTN/RIE	.00	.00
12402 8365*	NSS /MTN/RIE	.00	.00
12402 8365*	NSY /MTN/RIE	.00	.00
12402 8365*	N2W /MTN/RIE	.00	.00
12402 8365*	9LM /MTN	5.00	5.00

---RMKS

RMKR VL# 5201000336 FOR WINBACK

F1=MENU

F2=BILL

F3=PRINT

F4=SVC ORD

F5=CSR

F6=PREV

F7=NEXT

F8=NOTE

F9=PYMT REG

F10=USAGE

F11=F/B

F12=BILL STAT

Received 04/29, 12 12:04PM in 03:54 on line [2] for ACHRIST Pg 17/21
APR 29 2002 12:07 FR QWES1 602 235 3107 TO 99165678
CMD

P.17

MSG

CSR

P 3 S 1

ACCT: 602 652 1177 365
NOS 1

PROCESS DATE: 01-24-02
TOTAL EXCLUDING TAX 38.94

F1=MENU	F2=BILL	F3=PRINT	F4=SVC ORD	F5=CSR	F6=PREV
F7=NEXT	F8=NOTE	F9=PYMT REG	F10=USAGE	F11=F/B	F12=BILL STAT

65425
Decision No. _____

Received 04/29/02 12:04PM in 03:54 on line [2] for MURIST. Pg 18/21
APR 29 2002 12:07 FR QWEST 602 235 3107 TO 99165678
CMD MSG

P.18

ACCT: 602 652 1177 365

CSR

P 1 S 1

PROCESS DATE: 04-19-02

602 652 1177 365

CSR DATE: 04-19-02

BUI:

STATE: 1

EXCHANGE: PNX

SIC-MCC:

PCL:

CLS SVC: 1FR

---LIST

LN TURNEY, MICHAEL
LA 17217 N 34 ST, PHOENIX

---DIR

DEL NONE

---BILL

MCN XXXAHXXXXXO
SS 526-72-1225N
CBR 602 652-1177
BN1 MICHAEL TURNEY
BA1 17217 N 34 ST
PO 85032 PHOENIX AZ /TAR BK
CRV PSR6026521177-B
CBE ((N))

---S&E

ORIG SERV ESTAB 1-24-02

F1=MENU

F2=BILL

F3=PRINT

F4=SVC ORD

F5=CSR

F6=PREV

F7=NEXT

F8=NOTE

F9=PYMT REG

F10=USAGE

F11=F/B

F12=BILL STAT

65425

Decision No. _____

EXHIBIT A-2

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BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL
Chairman
JIM IRVIN
Commissioner
MARC SPITZER
Commissioner

MICHAEL R. TURNEY,
Complainant,
vs.
QWEST CORPORATION,
Respondent.

DOCKET NO. T-01051B-02-0193
AFFIDAVIT OF DIANE BARNES

STATE OF COLORADO)
County of Denver) ss.

Diane Barnes, being first duly sworn upon her oath deposes and says that:

1. I have personal knowledge of the matters and facts stated in this affidavit and, if sworn as a witness, am competent to testify with regard to all such matters.
2. I am a Senior Paralegal in the Legal Affairs Department at Qwest Corporation ("Qwest").
3. Part of my duties and responsibilities include responding to complaints and subpoenas involving the access to consumer proprietary network information ("CPNI"), as it is defined in 47 U.S.C. § 222. As part of my job responsibilities in this area, I was responsible for responding to Michael R. Turney's ("Complainant") May 30, 2001 civil complaint filed in Northeast Phoenix Justice Court and the civil subpoena issued by the Justice Court on June 7, 2001. I have personal knowledge of the matters discussed below by virtue of my job duties and responsibilities and direct involvement in the events described.
4. It is Qwest's normal business practice that when a customer calls to request incoming calling party information, it advises that customer that legal process, such as a subpoena

1 or a request from law enforcement, is required before Qwest will provide access to that
2 information.

3 5. On or about June 13, 2001, I contacted Complainant and told him that the
4 information he requested would cost \$350 per 24-hour period per telephone number.

5 6. On or about June 13, 2001, I told Complainant that the information would include
6 the originating and terminating telephone numbers.

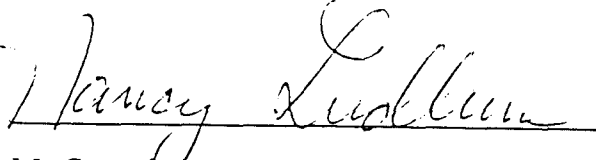
7 7. On June 29, 2001 and July 2, 2001, I submitted the AMA records for Account No.
8 602-652-1177-262 for May 17 and 24, 2001 via overnight mail to the Northeast Phoenix Justice
9 Court.

10 Affiant has read the foregoing Affidavit, knows the contents thereof, and states that the
11 foregoing is true according to her best knowledge, information, and belief.

12
13 DATED this 1st day of May, 2002.

14
15 
DIANE BARNES

16
17 SUBSCRIBED AND SWORN TO before me this 1st day of May, 2002.

18
19 

20 My Commission Expires:

21 August 11, 2003

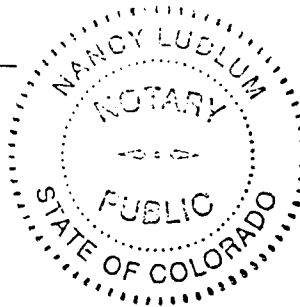


EXHIBIT A-3

Decision No. 65425

6-12-

153-11014

NORTHEAST PHOENIX JUSTICE COURT
10255 N. 32nd STREET, PHOENIX, AZ. 85028 506-3731

CASE NUMBER

101-6339

PLAINTIFF:

Michael R. Turney

DEFENDANT:

QWEST

Street:

17217 N. 34th St.

Street:

1675 Broadway Suite 1200

City/State/Zip:

Phoenix Arizona 85032

City/State/Zip:

Denver, Colorado 80202

Phone:

(602) 652-1177

Phone:

1-303-629-2500

ATTORNEY:

PAC PA

ATTORNEY/

Statutory Agent:

UNKNOWN

Street:

Street:

City/State/Zip:

City/State/Zip:

Phone:

Phone:

CIVIL COMPLAINT

Plaintiff alleges that this Court has jurisdiction over this matter.

I am suing the Defendant because:

The Location of the services is at 17217 N. 34th St, Phoenix, Arizona, in Maricopa County, the state of Arizona phone number (602) 652-1177.

The Plaintiff has made numerous attempts to obtain records of incoming and outgoing calls of his phone service from representatives of Qwest for the purpose to focus his search for his runaway ADD 17 year daughter who called home on May 24, 2001. The Plaintiff is seeking all incoming and outgoing calls for the month of May 2001. The Defendant is demanding a subpoena, which cannot be done without a complaint. This is a breach of contract for service paid for. Request \$9999.99 in damages. THEREFORE, I am asking for Judgment against the Defendant in the principal sum of \$ 9999.99 with court costs and interest at the legal rate from date of Judgment.

Being under oath, I affirm that I am one of the parties in this action. I have read the attached document and find that the statements are true to the best of my knowledge.

Date:

5/30/01

Plaintiff:

Michael R. Turney

Expiration date:

Notary/Clerk:

[Signature]

2420-001 R12-92

Decision No.

65425

EXHIBIT A-4

6-12-01 158
JWIL

NORTHEAST PHOENIX JUSTICE COURT
10255 NORTH 32nd STREET, PHOENIX, ARIZONA 85028 506-3731

NORTHEAST PHOENIX
JUSTICE COURT

2001 MAY 30 PM 4:14

CASE NUMBER: CV01-03

PLAINTIFF: Michael R. Turney DEFENDANT: Qwest Corp.
Street: 17217 N. 34th St. Street: 1675 Broadway, Suite 120
City/State/Zip: Phoenix, AZ 85032 City/State/Zip: Denver, Colorado 80202
Phone: (602) 652-1177 Phone: 1-303-629-2500

ATTORNEY: Pro Per ATTORNEY: UNKNOWN
Street: _____ Street: _____
City/State/Zip: _____ City/State/Zip: _____
Phone: _____ Phone: _____

CIVIL SUBPOENA

☒ FOR BELOW NAMED PERSON TO APPEAR ☒ DUCES TECUM (DOCUMENTS TO BE SUBMITTED AS STATED BELOW)

ORDER TO PERSONALLY APPEAR:

NAME: Controller of Phone Bills
ADDRESS: 1675 Broadway, Suite 1200
PHONE: 1-303-629-2500

YOU ARE TO APPEAR AT THE ABOVE NAMED COURT ON THE DATE AND TIME STATED BELOW:

DATE: JUNE 15, 2001 TIME: 5:00 P.M.

You are to remain until excused by the Judge to give testimony on behalf of ☐ Plaintiff ☒ Defendant.

DUCES TECUM (DOCUMENTS ONLY)

YOU ARE ORDERED TO SUBMIT TO THE COURT NAMED ABOVE THE FOLLOWING DOCUMENTS BY THE DATE AND TIME STATED BELOW:

phone bill listings all incoming & outgoing numbers for
(602) 652-1177, Account # 602 652-1177-262 May 2001

IF YOU FAIL TO APPEAR OR PRODUCE DOCUMENTS AS STATED ABOVE,
A WARRANT MAY BE ISSUED FOR YOUR ARREST.

DATE: _____ TIME: _____

Date:

6-7-01

JUSTICE OF THE PEACE

AFFIDAVIT OF SERVICE

Date served: _____ Time served: _____

Address of service: _____

Who served: _____

I attest that I served this subpoena and I am not a party to this matter; further I am not less than 18 years of age.

Notary _____

My Commission expires: _____

EXHIBIT A-5

Decision No. 65425

Service of Process Transmittal Form
Denver, Colorado

06/12/2001

Via Federal Express (2nd Day)

TO: Diane Barnes
Qwest Communications, Inc.
1801 California Street
Suite 5100
Denver, CO 80202

06/13
Claims

RE: PROCESS SERVED IN COLORADO

FOR Qwest Corporation Domestic State: Co

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

1. TITLE OF ACTION: Michael R. Turney vs Qwest Corporation
2. DOCUMENT(S) SERVED: Summons
3. COURT: Northeast Phoenix Justice Court
Case Number CV0103396RA
4. NATURE OF ACTION: Summons
5. ON WHOM PROCESS WAS SERVED: The Corporation Company, Denver, Colorado
6. DATE AND HOUR OF SERVICE: By Process server on 06/12/2001 at 13:58
7. APPEARANCE OR ANSWER DUE: Within 20 days.
8. ATTORNEY(S): None Shown/Civil suit
Michael R. Turney
17217 N. 34th Street
602-652-1177
Phoenix, AZ 85032

7/02

9. REMARKS: I-Note sent 06/12/2001 to JBARNES@USWEST.COM

SIGNED CT Corporation System
PER Christen Noakes /AV
ADDRESS 1675 Broadway
Suite 1200
Denver, CO 80202
SOP WS 0003723042

Information contained on this transmittal form is recorded for CT Corporation System's record keeping purposes only and to permit quick reference for the recipient. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information that can be obtained from the documents themselves. The recipient is responsible for interpreting the documents and for taking the appropriate action.

65425

Decision No. _____

EXHIBIT A-6

NORTHEAST PHOENIX JUSTICE COURT
10255 N. 34TH STREET, PHOENIX, ARIZONA 85028
(602) 506-3731

CASE NUMBER CV01-03396RA

PLAINTIFF: MICHAEL R. TURNEY	DEFENDANT: QWEST
STREET: 17217 N. 34 TH ST.	STREET: 1675 BROADWAY, STE 1200
CITY/STATE/ZIP: PHOENIX, AZ. 85032	CITY/ST./ZIP: DENVER, COLORADO 80202
PHONE: (602) 652-1177	PHONE: (303) 629-2500

ATTORNEY: PRO PER	ATTORNEY: UNKNOWN
STREET:	STREET:
CITY/STATE/ZIP:	CITY/ST./ZIP:
PHONE:	PHONE:

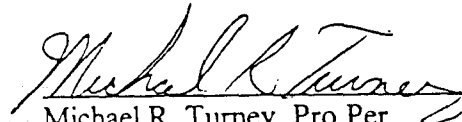
CIVIL COMPLAINT

STIPULATION

1. The Plaintiff has granted the Defendant time beyond the June 15, 2001 date of the subpoena to furnish him with the information requested from his phone account number 602 652-1177. He further has furnished them with the dates May 17, 2001 and May 24, 2001 to focus on as the two most important dates to allow the Plaintiff to learn who his daughter called and or who called her and to focus his search for his daughter Alissa Turney, by learning which number she called from, or at least an area code, due to the note she left stating she was going to California.

2. The Plaintiff was contacted by Qwest paralegal Diane Barnes on June 14, 2001 requesting the extension before she would sign the subpoena for the records. The Plaintiff agreed with a verbal understanding that should it take a great deal of time, that he be notified.

Respectfully submitted this 20th day of June, 2001.


Michael R. Turney, Pro Per

Copies mailed this 20th day of June, 2001 to:

Qwest
c/o paralegal Diane Burnes
1675 Broadway, Suite 1200
Denver, Colorado 80202
(303) 629-2500

EXHIBIT A-7

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 WILLIAM A. MUNDELL

 Chairman

3 JIM IRVIN

 Commissioner

4 MARC SPITZER

 Commissioner

5 MICHAEL R. TURNEY,

6 Complainant,

7 vs.

8 QWEST CORPORATION,

9 Respondent.

DOCKET NO. T-01051B-02-0193

AFFIDAVIT OF LYNN M. APPELLO

11 STATE OF COLORADO)

12 County of Denver)

) ss.

13 Lynn Appello, being first duly sworn upon her oath deposes and says that:

14 1. I have personal knowledge of the matters and facts stated in this affidavit and, if

15 sworn as a witness, am competent to testify with regard to all such matters.

16 2. I am a Security Manager in Corporate Security at Qwest Corporation ("Qwest").

17 3. Part of my duties and responsibilities include managing the Security Response

18 Center, the Court Order Processing Group and the Annoyance Call Bureau. I have personal

19 knowledge of the matters discussed below by virtue of my job duties and responsibilities.

20 4. Information a customer requests regarding incoming calls is not a customer or

21 business record kept by Qwest in the normal course of business with respect to that customer's

22 telecommunications services because customers are not billed for non-toll calls. If a customer

23 was looking for identification of a toll call billed to his number, Qwest could have provided it to

24 him because it would already have existed as part of his billing information. When information

25 does not exist as a toll record, Qwest must search for and assemble its own raw data.

5. Qwest charges \$350 per subject telephone number per day for which the data related to incoming calls is produced to recover the system costs Qwest incurs when it searches for and assembles this information.

6. The procedure to pull Automated Message Account ("AMA") records, which include some data related to incoming calls, is very extensive. Qwest devotes computer and personnel time to the process involved in pulling AMA records. In order to process the requests, the computer must sort through thousands of records of phone calls for information related to the appropriate date and account number. This process can take several hours of computer time and resources. Finally, an individual then must verify that the data collected was the data requested. Local call detail is sometimes, but not always revealed from a search of AMA records.

7. AMA records include, among other things, the date a call was placed, the originating phone number, and the terminating phone number.

8. Qwest does provide law enforcement with AMA records, which contain incoming call information. Qwest's business practice is to only charge law enforcement for the information provided after the first 24-hour period. After that first period, Qwest charges law enforcement \$350 for each 24-hour period of data. Law enforcement requests may be expedited if the law enforcement personnel notify Qwest that it is an emergency.

Affiant has read the foregoing Affidavit, knows the contents thereof; and states that the foregoing is true according to her best knowledge, information, and belief.

DATED this 2 day of May, 2002.

Lynn M Appello
LYNN M. APPELLO

SUBSCRIBED AND SWORN TO before me this 2 day of May, 2002.

Kim Jackson
City and County of Denver
ACHRISTE/1297284.1/67817.293

ACHRISTE/1297284.1/67817.293

65425

Decision No.

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My Commission Expires:
June 29, 2005

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10N

ACHRISTE/1297284.1/67817.293

EXHIBIT A-8

65425

Decision No. _____

Example of How to Read an AMA Dump

This identifies the time and date the report was printed.
Our system uses 24 hour time throughout.

DATE 04/22/1999
TIME 15:15

RUP8935 PRINT REPORT

PAGE 1

AAC0052 C001C096C0801020C013C0879378C0401C0C000C801C2957122C1C00000C801C2940583C2058349C000001433

This
code,
AA,
identifies
this as a
good
record

The letter "C" acts as a spacer within the record, dividing information.

This is the date the call was placed. The format is Y/MM/DD, so this call was placed in 2000, on April 01.

AAAC0052C001C096C0801020C013C0879378C0401C0C000C801C2957122C1C00000C801C2940583C2058349C000001433C0

This is the originating telephone number. The telephone number on this call is 801-295-7122

This is the terminating telephone number (where the call is going to). The terminating number of this call is 801-294-0583

This is the time the call was placed. The format is Hours/Minutes/Seconds/Tenths of seconds. This call was placed at 20 hours/58 minutes/34 seconds and 9 tenths of a second.

This is the duration of the call. The format is Minutes/ Seconds/ Tenths of seconds. This call lasted 1 minute, 43 seconds and 3 tenths of a second.

9/11/00

Approved: L Ecken, Manager

65425

Decision No. _____

EXHIBIT A-9

Decision No. 65425

MODULE 4

PROCESSING THE SUBPOENA

Information Requested

Records Available

There are many different records available for request. The table below lists and briefly explains the primary and most often requested records.

U S WEST Records Available	
RECORD	PROVIDES
911 Call Records	Information on all 911 calls placed to an enhanced or automated numbering identification system from a residence or business. Note: The legal process request must include date(s), approximate time(s) and the originating telephone number that dialed 911. Note: U S WEST does not provide telephone recordings of 911 calls.
AMA Records	Information on all calls made during a specified 24 hour period. The information is provided by the AMA - Data Analysis Group. There are charges and limitations associated with AMA Records. For: • Civil Procedure - Records requests are billed at \$350.00 for each 24-hour period. • Criminal Procedure: Records requests are billed only after the first 24-hour period. After that, the charge is \$350.00 for each 24 hours. Also see Local Call, Payphone, or Reverse/ Terminating Toll Records.
Billing Information	The location where U S WEST sends the bill.
Billing Statements	Complete Bills, Account Statements, and information on the Billing Period, etc.). If the legal process requires release of records that have not been billed, advise the requester when the bills will be available and place it in your future file.
Credit Information	Information provided by the customer upon origination of phone service and may not be accurate or current. Information can include, but is not limited to the: Social Security Number, Customer Can Be Reached Number (CBR), and Place of Employment.

Continued on next page

4/22/99

Confidential

Disclose and distribute solely to U S WEST Employees having a need to know.

4 ~ 19

65425 TOTAL PAGE.02 **

Decision No. _____

EXHIBIT A-10

65425

Decision No. _____



Qw.
1801 California Street, Suite 3800
Denver, Colorado 80202
Phone 303 672-2756
Facsimile 303 295-1912
jbarnes@qwest.com

Diane Barnes
Paralegal

Sent via overnight courier

June 29, 2001

The Honorable Jacqueline B. McVey
Northeast Phoenix Justice Court
10255 North 32nd Street
Phoenix, Arizona 85028

cc: Lynn

Re: *Michael R. Turney v. Qwest*
Northeast Phoenix Justice Court
Case No. CV01-03596RA

Dear Judge McVey:

Please accept this correspondence as Qwest's Answer to the above-identified complaint and related *subpoena*. It is Qwest's policy to produce subpoenaed documents directly to the court in *pro se* and *pro per* proceedings.

In his *subpoena*, plaintiff requested certain phone records for each day of May 2001. After Qwest and plaintiff discussed the subpoenaed records, however, plaintiff modified his request to limit the scope of the *subpoena* to two days during the month of May: May 17th and May 24th. Attached are the records for May 24, 2001. The records for May 17th will be produced on Tuesday, July 3, 2001; plaintiff has agreed to this date for production as well.

The records subpoenaed by plaintiff are records not kept by Qwest within the normal course of business and require a labor-intensive process to collect and produce, a process, which can potentially divert Qwest personnel from emergency requests from law enforcement. Due to the time-consuming nature of collecting these documents, Qwest charges \$350.00 per 24-hour period for production of these records. In this case, Qwest is willing to waive this charge for plaintiff *pro per* for the May 17th and May 24th time periods only.

In response to plaintiff's allegations in his complaint, Qwest denies the allegations and denies any liability. Further, Qwest denies that plaintiff is entitled to any damages from Qwest.

Should you have any questions, please feel free to contact me.

Sincerely,

Diane Barnes

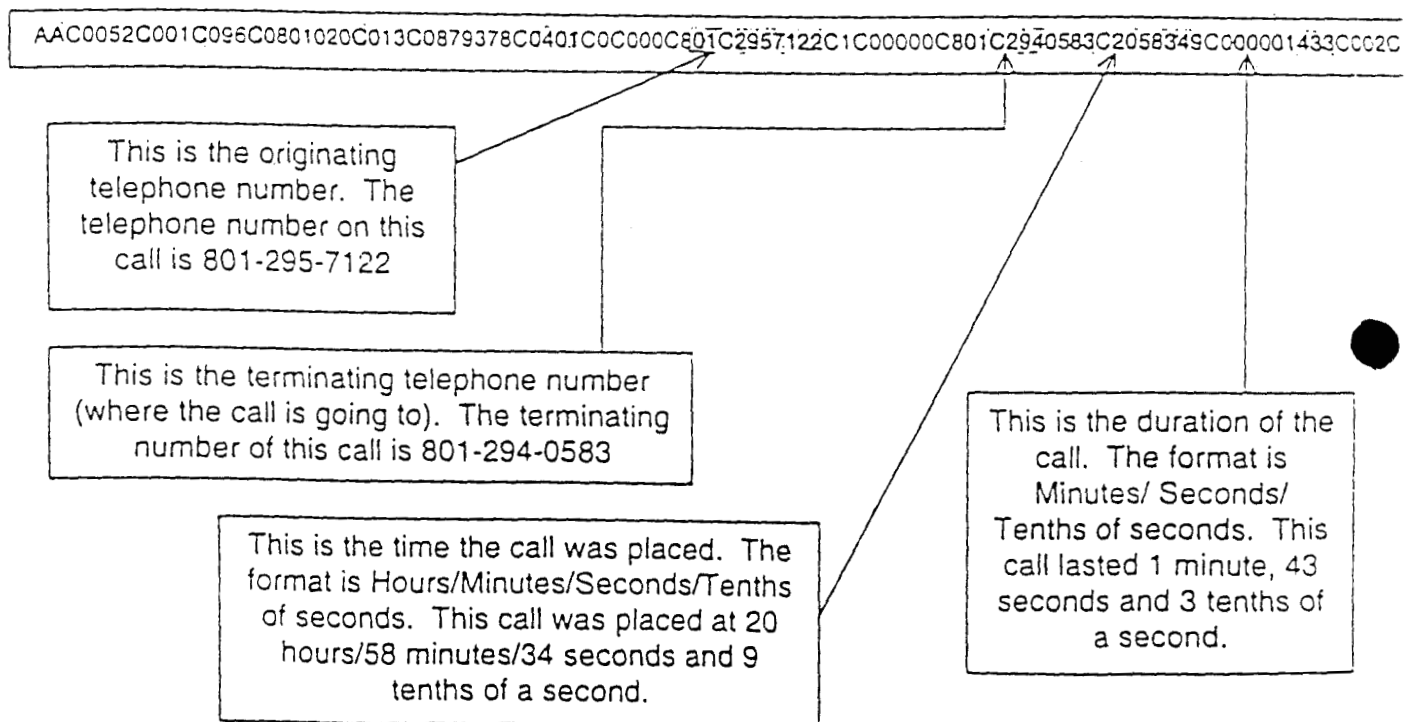
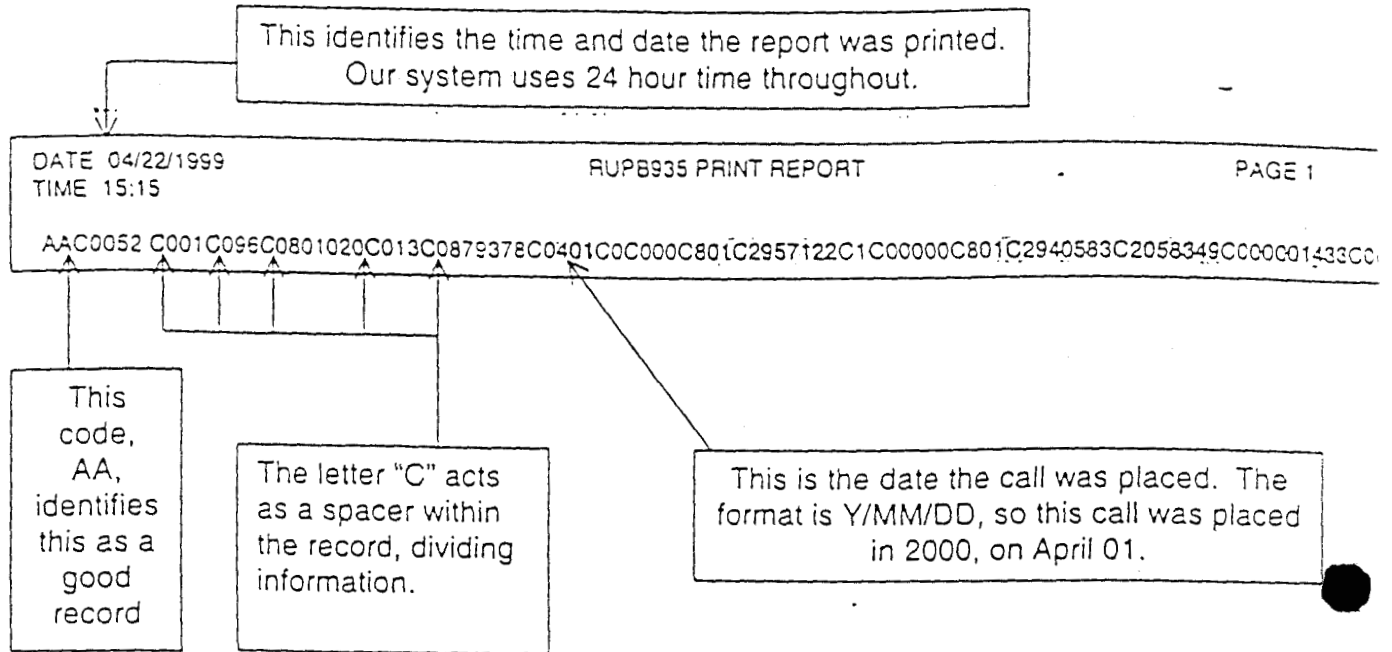
Attachment

cc: Michael R. Turney, *plaintiff pro per* (w/o attachments)

65425

Decision No. _____

Example of How to Read an AMA Dump



DATE 06/26/2001
TIME 06:31

RUPB935 PRINT REPORT

CONTROL CARD 1 INPUT=HISTORY
CONTROL CARD 2 OUTPUT=PRINT,PRINTLIMIT=500000
CONTROL CARD 3 CASE 01 81386 EQ 10524C;
CONTROL CARD 4 CASE 01 81413 EQ 6521177C;
CONTROL CARD 5 CASE 01 81410 EQ 602C;
CONTROL CARD 6 CASE 02 81386 EQ 10524C;
CONTROL CARD 7 CASE 02 81422 EQ 6521177C;
CONTROL CARD 8 CASE 02 81417 EQ 00602C;

EXHIBIT A-11

65425

Decision No. _____



Qwest
1801 California Street, Suite 3800
Denver, Colorado 80202
Phone 303 672-2756
Facsimile 303 295-1912
jbarnes@qwest.com

Diane Barnes
Paralegal

Sent via overnight courier

July 2, 2001

The Honorable Jacqueline B. McVey
Northeast Phoenix Justice Court
10255 North 32nd Street
Phoenix, Arizona 85028

Re: *Michael R. Turney v. Qwest*
Northeast Phoenix Justice Court
Case No. CV01-03596RA

Dear Judge McVey:

Attached are documents which supplement Qwest's response to the subpoena issued in this matter.

Should you have any questions, please feel free to contact me.

Sincerely,

Diane Barnes

Attachment

cc: Michael R. Turney, *plaintiff pro per* (w/o attachments)

65425

Decision No. _____

DATE 06/29/2001
TIME 13:13

RUPB935 PRINT REPORT

PAGE 1

CONTROL CARD 1 INPUT=HISTORY
CONTROL CARD 2 OUTPUT=PRINT;PRINTLIMIT=500000
CONTROL CARD 3 CASH 01 81386 RQ 10517C;
CONTROL CARD 4 CASH 01 81413 RQ 6521177C;
CONTROL CARD 5 CASH 01 81410 RQ 602C;
CONTROL CARD 6 CASH 02 81386 RQ 10517C;
CONTROL CARD 7 CASH 02 81422 RQ 6521177C;
CONTROL CARD 8 CASH 02 81417 RQ 00602C;

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Jun-28-01 03:08PM
Decision No.

T-557 P.03/08 F-143

Decision No. 65425

36479847	001-100	AA00625C119C192C0602071C013C0879378F10517F00000C0000000C0C0C0000F602C13735777F0C0F602C6521177F173426
	101-158	6F0000001347F90672C10517C1734069C000001543C010C67288C1C1C2C
36784594	001-100	AA00625C110C192C0602071C013C0879378F10517F00000C0000000C0C0C0000F602C6521177F0C0F602C2821700F174110
	101-158	4F0000001045F91752C10517C1741097C000001052C010C30010C0C1C3C
30199126	001-100	AA00625C119C036C0602071C013C0879378F10517F00000C0200000C0C0C0C000F602C13735777F0C0F602C6521177F173425
	101-200	9F0000001342F06522C10517C1734051C000001550C010C40120C1CFP3C720C001C06025700000CPFFFFFPFFFPFFFPFFFPFF
	201-270	PPPP10900000C720C002CFFFPFFFPFFFPFFFPFFFPFFFPFFFPFFFPFFFPFF1010000C000C
38746439	001-100	AA00625C110C192C0602071C013C0879378F10517F00000C0000000C0C0C0C000F602C6521177F0C0F602C4935083F175645
	101-158	2F0000016431F91732C10517C1756395C0000016488C010C30122C0C1C3C

.....1.....2.....3.....4.....5.....6.....7.....8.....9.....0

39210274	001-100	AA00625C110C192C0602015C013C0879378	10517700000C000000000C0C0C0000	602C65211770C0	602C7588163	182825
	101-158	9F0000000058F90822C10517C1827581C0000000336C010C30208C0C1C3C				
39325033	001-100	AA00625C110C192C0602015C013C0879378	10517720000C000000000C1C0C0C0000	602C65211770C0	602C7588163	182928
	101-158	8F0000000000F90822C10517C18284951C0000000393C007C30208C0C1C3C				
39339630	001-100	AA00625C119C192C0602015C013C0879378	10517700000C000000000C0C0C0000	602C7588163	0C00	602C6521177182947
	101-158	0F00000000380F90822C10517C1829436C000000415C010C30208C0C1C3C				
42261236	001-100	AA00625C119C008C0602015C013C0879378	10517700000C000000000C0C0C0000	602C7588163	0C00	602C6521177170137
	101-194	1F0000000225F06522C10517C1701165C000000431C010C30208C0C1C3C				
7532	001-100	AA00625C119C008C0602015C013C0879378	10517700000C000000000C0C0C0000	602C7588163	0C00	602C6521177171645
	101-194	1F0000000155F06522C10517C1716243C0000000363C010C30208C0C1C3C				
42267919	001-100	AA00625C119C008C0602015C013C0879378	10517700000C000000000C0C0C0000	602C7588163	0C00	602C6521177171741
	101-194	1F0000000181F06522C10517C17197C0000000395C010C30208C0C1C3C				
43995963	001-100	AA00625C110C192C0602015C013C0879378	10517700000C000000000C0C0C0000	602C65211770C0	480C6887702	200653
	101-158	7F0000001215F90972C10517C2006461C0000001292C010C30245C0C1C3C				
44013839	001-100	AA00625C110C192C0602015C013C0879378	10517720000C000000000C1C0C0C0000	602C65211770C0	602C5788163	202626
	101-158	6F0000000000F90942C10517C2026230C0000000035C007C63876C1C1C3C				
44029049	001-100	AA00625C110C192C0602015C013C0879378	10517700000C000000000C0C0C0000	602C65211770C0	602C7588163	202648
	101-158	1F00000000584F90822C10517C2026381C0000001082C010C30208C0C1C3C				
45107503	001-100	AA00625C110C192C0602015C013C0879378	10517720000C000000000C1C0C0C0000	602C65211770C0	602C5788163	203733
	101-158	2F0000000000F90942C10517C2037293C00000000033C007C63876C1C1C3C				
0394	001-100	AA00625C110C192C0602015C013C0879378	10517720000C000000000C1C0C0C0000	602C65211770C0	602C5788163	203748
	101-158	0F0000000000F90942C10517C2037384C00000000096C007C63876C1C1C3C				
45115033	001-100	AA00625C110C192C0602015C013C0879378	10517720000C000000000C1C0C0C0000	602C65211770C0	602C5788163	203813
	101-158	4F0000000000F90942C10517C2038099C00000000034C007C63876C1C1C3C				
45110639	001-100	AA00625C110C192C0602015C013C0879378	10517720000C000000000C1C0C0C0000	602C65211770C0	602C5788163	203833
	101-158	2F0000000000F90942C10517C2038221C0000000110C007C63876C1C1C3C				
45121506	001-100	AA00625C110C192C0602015C013C0879378	10517720000C000000000C1C0C0C0000	602C65211770C0	602C5788163	203849
	101-158	1F0000000000F90942C10517C2038459C000000000032C007C63876C1C1C3C				

45246961	001-100	AA00625C110C192C0602091C013C0879378	10517	20000C0000000C1C0C0C000	602C6521177	0C0	602C5788163	204149
	101-158	5000000000	90942C10517C2041459C000000036C007C63876C1C1C3C					
45270825	001-100	AA00625C110C192C0602091C013C0879378	10517	20000C0000000C1C0C0C000	602C6521177	0C0	602C5788163	204359
	101-158	20000000000	90942C10517C2043557C0000000035C007C63876C1C1C3C					
45424303	001-100	AA00625C119C008C0602015C013C0879378	10517	00000C0000000C0C0C0C000	602C7588163	0C0	602C6521177	182951
	101-194	30000000380	06522C10517C1829480C000000413C010C30208C0CF3C070C001C2C2111111111111C00127C000C					
45447150	001-100	AA01030C330C008C0602015C013C0879378	10517	095	602C6521177	0C0	623C5804250	1922513
	101-112	PPPPPPPPPP						

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45665310 001-190 AA00625C110C192C0602091C013C0879378F10517F20000C0000000C1C0C0C000F602C6521177F0C0F602C5788163F205309
101-158 BC000000000C90942C10517C2053054C000000004C007C63B76C1C1C3C
46194249 001-100 AA00625C110C192C0602015C013C0879378F10517F00000C0000000C0C0C0C0000F602C6521177F0C0F602C2821700F205747
101-158 4C000007495C91752C10517C2057468C000007501C010C30010C0C1C3C
47600265 001-100 AA10500C006C008C0602015C013C0879378F10517F1C0000F602C6521177F1C0F602C5788163F2026268F0000000000C600034
101-102 4C
47603442 001-100 AA10500C006C008C0602015C013C0879378F10517F1C0000F602C6521177F1C0F602C5788163F2037339F0000000000C600003
101-102 3C
511 001-100 AA10500C006C008C0602015C013C0879378F10517F1C0000F602C6521177F1C0F602C5788163F2037422F0000000000C600007
101-102 7C
47603695 001-100 AA10500C006C008C0602015C013C0879378F10517F1C0000F602C6521177F1C0F602C5788163F2038137F0000000000C600006
101-102 1C
47603779 001-100 AA10500C006C008C0602015C013C0879378F10517F1C0000F602C6521177F1C0F602C5788165F2038261F0000000000C600018
101-102 8C
47603846 001-100 AA10500C006C008C0602015C013C0879378F10517F1C0000F602C6521177F1C0F602C5788163F2038499F0000000000C600006
101-102 9C
47643549 001-100 AA01030C330C008C0602022C013C0879378F10517F1095F602C9786781F1C0F602C6521177F1949132F0000000000CFFFFFF
101-112 PFFFFFFFFFFF
48103882 001-100 AA00625C119C192C0602015C013C0879378F10517F00000C0000000C0C0C0C0000F602C4935083F1C0F602C6521177F213502
101-158 4F000020042F91732C10517C2134504C0000020162C010C30122C0C1C2C
4 001-100 AA00625C110C192C0602015C013C0879378F10517F00000C0000000C0C0C0C0000F602C6521177F0C0F602C2821700F215520
101-158 0F000002264F91752C10517C2155193C000002271C010C30010C0C1C3C
48917430 001-100 AA00625C110C192C0602015C013C0879378F10517F00000C0000000C0C0C0C0000F602C6521177F0C0F602C4785948F221859
101-158 5F0000010590F90992C10517C2218419C000001166C010C30116C0C1C3C
49044355 001-100 AA00625C119C192C0602015C013C0879378F10517F00000C0000000C0C0C0C0000F602C4935083F1C0F602C6521177F223547
101-158 6F000005188F91732C10517C2235434C000005230C010C30057C0C1C2C
49745270 001-100 AA10500C006C008C0602015C013C0879378F10517F1C0000F602C6521177F1C0F602C5788163F2041498F0000000000C600008
101-102 7C

49745730 001-100 AM10500C006C008C0602015C013C08793788f10517f1C000f602C6521177f1C0b602C5708163f2043596f0000000000C600006
101-102 1C

49747970 001-100 AM10500C006C008C0602015C013C08793788f10517f1C000f602C6521177f1C0b602C5708163f2053093f0000000000C600036
101-102 0C

50858048 001-100 AM00360C141C008C0602015C013C08793788f10517f00000C0000000C0C0C0C000f602C6521177f800C8725437f0C00800C87
101-178 25437f2349593f0000001111f02881C10517C2349464C000001240C010C30004C0C8C3C000C666C

.....

JOB SUMMARY

50003066 ITEMS READ

0 ITEMS WRITTEN TO DATASET OUTPUT

52 ITEMS PRINTED TO REPORT OUTPUT.

OUTPUT DATASET NAME = *** NO DATASET CREATED ***

EXHIBIT A-12

MARICOPA COUNTY STATE OF ARIZONA	CASE NO. cv01-03396ra
Michael R Turney 17217 N 34 St Phx.Az 85032	Qwest 1801 California St #3800 Denver, Colorado 80202
Plaintiff	Defendant
	CIVIL PROCEEDINGS
DATE 7-31-01	Grant, Plaintiff's motion for montary judgment is set at costs of \$67.00.

8-1-01

DATE _____

DATE _____

Linda

CLERK _____

Decision No. 65425

NORTHEAST PHOENIX JUSTICE RT
10255 NORTH 32nd STREET
PHOENIX, ARIZONA 85028 (506-3731)

MARICOPA COUNTY
STATE OF ARIZONA

CASE NO. cv01-03396ra

Michael R Turney
17217 N 34 St
Phx.Az 85032

Qwest
1801 California St #3800
Denver, Colorado 80202

Plaintiff

Defendant

THIS MATTER WAS HEARD by the Court on this date: _____.

JUDGMENT

____ Plaintiff appeared ☐ in person.
____ by counsel.

____ Defendant appeared ☐ in person.
____ by counsel.

THIS MATTER WAS HEARD as a trial to ☐ court.
____ jury.

____ The jury returned a verdict in favor of the ☐ Plaintiff for \$_____
____ Defendant

____ IT IS ORDERED granting Judgment to the ☐ Plaintiff for:
____ Defendant

Judgment \$_____, together with attorney fees \$_____, costs and accruing costs, and
interest at _____% per annum until paid.

____ IT IS FURTHER ORDERED granting Judgment on Counterclaim to the ☐ Plaintiff.
____ Defendant.

Judgment on Counterclaim \$_____, together with attorney fees \$_____, costs and
accruing costs, and interest at _____% per annum until paid.

____ Judgment is entered upon Default of the Defendant and request for judgment ☐ with
____ without hearing.

Judgment \$_____, together with attorney fees \$_____, costs and accruing costs, and
interest at _____% per annum until paid.

☒ Upon motion for summary judgment or judgment on the pleadings, IT IS ORDERED granting Judgment to the
☒ Plaintiff for:
☐ Defendant

Judgment \$XXXXXXXXXXXXXXXXXXXXXXXXXXXX \$67.00, costs and accruing costs, and
interest at 10% per annum until paid.

DATED: 8-2-01

65425

Decision No. _____

EXHIBIT A-13

Thursday, August 30, 2001 10:41 AM

mike turney 602 652-1177

p.03

August 29, 2001

Page 1 of 2

Michael R. Turney
17217 N. 34th St.
Phoenix, Arizona *5032
(602) 652-1177

Arizona Corporation Commission
1200 W. Washington
Phoenix, Arizona 85007
(602) 542-0657 Fax (602) 542-2129

RE: Qwest failure to furnish complete consumer services as set forth by U.S.C. Title 47, Section 222, Privacy of Customer Information AND setting the cost of \$350.00 per day for phone numbers called to a residence to deter consumer requests.

To Whom It May Concern:

I am filing this complaint against Qwest, a telecommunications provider, who refused to provide an avenue for me to obtain a telephone number my runaway minor child called from without having to furnish a subpoena through a private law suit.

All attempts through a Marty of the corporate office to obtain this information were denied, in spite of their being told that my daughter was an identified mentally impaired minor under the American Disabilities Act and IDEA. I was never informed, before the law suit, that I had the option to pay \$350.00 per 24 hour period for this information. I would have paid this amount at the time to better my chances of finding her before she became one more face in California, even if this high fee is obviously designed to discourage the average citizen from using this service.

Your office was complained to on 8/25/2001 verbally. I was told there was nothing the ACC could do. After the search for my daughter in California, ACC was contacted again. Brenda of Commissioner Mundall was furnished the information during the week of July 9, 2001. During a second conversation with Brenda, she furnished me with the number of Vernon of the Governors Office, who informed me the Governor had no authority or interest in my situation.

My daughter ran away from home on 5/17/2001. A report was filed with the PPD. The National Center for Missing and Exploited Children was contacted. They furnished posters and advised a Gail McBride of DPS to be the contact person in Arizona for "Clearing House" police subpoena powers. Upon contacting her she stated she did not provide this service. PPD stated they do not use their police subpoena powers for mentally impaired classified runaway minors. A civil action was filed in Justice court. Court ruled that the suit should not have been filed, awarding court cost to me. Number was furnished on July 2, 2001, approximately six weeks after it was requested, whereupon, on July 5, 2001 I traveled to Riverside, California to begin the search for my daughter. Seven different police agencies were contacted. All seven stated that under the circumstances of my daughter, they would have assisted in obtaining the phone number within hours. Arizona remains consistently inhumane and indifferent about children and or anyone with a mental impairment.

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Decision No. _____

Thursday, August 30, 2001 10:41 AM

mike turney 602 852-1177

p.04

Page 2 of 2

Although Brenda and your complaint division has verbally denied my complaint, I am asking you to furnish me with your rubber stamp of denial to get involved, as usual, so I may move forward with a federal district court suit to obtain an injunction or judgment against Qwest to change their policy for future parents and damages for causing a six week delay in my search for my daughter. I am aware of the duties of the ACC, but there are no legal controlling authorities to make you do your job. If you have any questions, please call. Do not sit on this, as I need to continue my search for my daughter, which from this point will most probably require the use of a private investigator.

Sincerely,

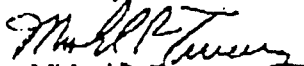

Michael R. TurneyDecision No. 65425

EXHIBIT A-14

65425

Decision No. _____

LAW OFFICES
FENNEMORE CRAIG
A PROFESSIONAL CORPORATION

TIMOTHY BERG

Direct Phone: (602) 916-5421
Direct Fax: (602) 916-5621
tberg@fclaw.com

OFFICES IN:
PHOENIX, TUCSON,
NOGALES, AZ; LINCOLN, NE
3003 NORTH CENTRAL AVENUE
SUITE 2600
PHOENIX, ARIZONA 85012-2913
PHONE: (602) 916-5000
FAX: (602) 916-5999

October 25, 2001

VIA FACSIMILE AND MAIL (602) 542-4870

Maureen Scott
Legal Division
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

Re: Michael Turney
File No. 67817.213

Dear Maureen:

On behalf of Qwest Corporation ("Qwest"), I am responding to your request for a written response from the Company, indicating its practice concerning the release of caller identification data as specifically applied to the above-referenced matter. Qwest's understanding is that Michael Turney asked for assistance in determining the telephone number/location from which his daughter telephoned him on a particular day.

The information Mr. Turney requested was not a record normally associated with an individual customer's telephone account because customers are not billed for non-toll calls. If a customer is looking for identification of a toll call billed to his number, Qwest can provide it to him fairly easily because it already exists as part of his billing information. When information does not already exist as a toll record, Qwest must search for and assemble its own raw data. Non-toll call detail is sometimes, but not always, revealed from such a search. To date, Qwest has required a subpoena before producing this non-toll call information to customers on the basis that it is not billing information associated with the customer's billed telephone account.

Searching for and assembling this raw data causes Qwest to incur system costs for the resources used. Those costs presently average approximately \$350 per subject telephone number per day for which the data is produced.

Qwest makes available services, such as caller identification and the call trace (*57) option. These services achieve an appropriate balance between the competing rights and interest of the various individuals or entities concerned. For example, the Commission itself expressed

FENNEMORE CRAIG

VIA FACSIMILE AND MAIL (602) 542-4870

Maureen Scott
October 25, 2001
Page 2

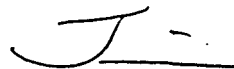
tremendous concern for the balancing of these interests when it approved the introduction of caller identification service. See In the Matter of the Commission's Examination into the Caller ID Service Offering by U S WEST Communications, Inc., Docket No. E-1051-91-298. As a result, a customer who subscribes to caller identification typically will be able to know the name and/or telephone number of the individual placing the call. However, individuals making such calls that do not want their locations or identities divulged may block such identification.

As regrettable as Mr. Turney's experience may have been, there may be instances where the liberal disclosure of a caller's location or telephone number would result in severe and unwanted consequences, such as cases involving abused spouses and family members. For this reason, Section 222 of the Telecommunications Act of 1996 places certain obligations on carriers with respect to their treatment of customer proprietary information. Qwest's policy is to err on the side of caution and act conservatively in releasing such private information.

I hope the foregoing satisfies your concerns regarding this matter. If you have any questions or comments, please feel free to contact me.

Sincerely,

FENNEMORE CRAIG



Timothy Berg

cc: Maureen Arnold

PHX/TDWYER/1234199.4/67817.213

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Decision No. _____

EXHIBIT A-15

65425

Decision No. _____

WILLIAM A. MUNDELL
CHAIRMAN

JIM IRVIN
COMMISSIONER

MARC SPITZER
COMMISSIONER



BRIAN C. MCNEIL
EXECUTIVE SECRETARY

ARIZONA CORPORATION COMMISSION

December 18, 2001

Mr. Michael R. Turney
17217 North 34th Street
Phoenix, AZ 85032

Dear Mr. Turney:

1 This letter is written by way of response to your inquiries to the Arizona Corporation Commission Staff, regarding issues that have arisen in connection with your attempts to determine the location from which your runaway daughter called in May, 2001. It is my understanding that Qwest initially refused to provide you with the information, upon your request. After Qwest refused to release the information to you, you filed suit against Qwest in the Northeast Phoenix Justice Court and subpoenaed certain phone records for each day of May, 2001. Following conversations with Qwest, you agreed that records for May 17 and 24, 2001 would be sufficient. Qwest gathered and released these records to the court. In addition, Qwest waived its usual \$350.00 per day charge for production of the records. I have reviewed the questions you present, and have determined that Commission Staff should take no action on your complaint.

2 You raise three primary issues for consideration. First, you argue that the \$350.00 charge is excessive. Second, you express concern that the information is in fact collected, but collected by someone other than Qwest. Finally, you believe federal law requires Qwest to provide caller information to persons in your circumstance. We asked Qwest to respond to these issues and have considered Qwest's response in light of our own interpretation of applicable law. This letter reflects my opinions on the issues.

3 First, as to the amount charged by Qwest for release of the information. Qwest claims that this amount reflects the system costs incurred for the resources used to search for and assemble the raw data necessary to provide caller information when that information is not normally collected for billing purposes. When a call is billed collect or to a third party all information including where the call originated from is automatically gathered as a part of the

Mr. Michael R. Turney
 December 18, 2001
 Page 2

billing information. For instance, when a collect call is made to a customer's number the place of origin of the call is gathered, as it is pertinent to the amount billed for the call. Information that will not become a part of the billing record is not routinely gathered. When such information has not been gathered, but is subsequently requested, Qwest must search for and assemble a record from its own raw data. This data assembly causes Qwest to incur costs that it would not normally incur. Qwest maintains these costs average \$350 per subject telephone number per day for which the data is gathered. This charge is not regulated by the Commission, but does not appear to be unreasonable given the nature of the necessary research. In any event, it appears the issue is moot as it applies to you, since Qwest waived its charge in your case.

4 Your belief that someone other than Qwest is collecting this information is based on your reading of a letter sent by Diane Barnes of Qwest, and dated June 29, 2001, to Justice McVey of the Justice Court in response to your complaint. You read the language "not kept by Qwest within the normal course of business" to mean that someone other than Qwest keeps the records. I believe you misconstrue the sentence in question. The letter itself, and subsequent letters from Qwest counsel, make clear that the information is not kept by Qwest in its ordinary course of business, and must therefore be searched for and assembled upon request. The letter appears to mean that the information must be developed since it isn't kept in the ordinary course of business, not that the information is collected by someone other than Qwest.

5 Finally, I disagree as to the meaning of the applicable federal law. The primary purpose of Section 222 is to create a duty to protect customer information collected by telecommunications carriers. As you point out, the section does provide some exceptions. The exception upon which you rely states: "Nothing in this section *prohibits* a telecommunications carrier from using, disclosing, or permitting access to customer proprietary network information obtained from its customers" This language means only that the carrier is not *prohibited* from disclosing information, not that the carrier has any duty to disclose information. This reading is supported by the overall privacy protection purpose behind the statute. The statute goes on to say that the carrier may "provide call location information concerning the user of a commercial mobile service . . . to inform the user's legal guardian or members of the user's immediate family of the user's location in an emergency situation that involves the risk of death or serious physical harm." Mobile service is defined in the statute as "radio communications" between mobile stations and land stations or between two mobile stations. In summary, the statute allows *but does not require* the carrier to disclose information to parents when the child calls from a mobile telephone and is at risk of death or serious physical harm. This is the plain meaning of the statute. Because the statute permits rather than requires the carrier to release information, and because the purpose of the statute is the protection of privacy, it doesn't seem unreasonable for Qwest to err on the side of caution when considering requests. Requiring a subpoena tends to promote the statute's purpose of protecting privacy, while still allowing a means of access.

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Decision No. _____

Mr. Michael R. Furney
December 18, 2001
Page 3

6. The federal statute seeks to protect persons from unwanted disclosure of location or phone number. There are circumstances where this protection is imperative. For instance in the case of abused spouses and children. Qwest has given the protection of these individuals great weight. Unfortunately, this protection has worked against you in your circumstance and that is regrettable. However, given the delicate balancing required to meet competing concerns of privacy versus information access, it appears that Qwest's policies and procedures are appropriate.

Sincerely,

Christopher C. Kempley

Christopher C. Kempley
Chief counsel

CCK:nrr

cc: Maureen Scott
Gary Horton

65425

Decision No. _____

EXHIBIT A-16

65425

Decision No. _____

Thursday, August 30, 2001 10:41 AM

mike turney 602 652-1177

p.01

August 30, 2001

Michael R. Turney
17217 N. 34th St.
Phoenix, Arizona 85032
(602) 652-1177

Congressman John Shadegg
Fax (602) 263-5300

Dear Congressman Shadegg,

I am enclosing copies of the correspondence I sent to the ACC and Chief of police of PPD about a very disconcerting, but consistent way Arizona does business pertaining identified juveniles under the IDEA and ADA.

In my situation, my daughter ran away, then called home. The attempt to obtain the number she called from is what brought to surface a number of concerns about privacy.

I am enclosing a copy of USC Title 47, Section 222, Privacy of customer information. It is clear that Qwest violated this section when they refused to furnish me the number my daughter called from. I am not asking your office to get involved with this area.

My area of concern pertains with a letter Qwest wrote to the Justice Court about the records of my phone calls being kept by a company other than Qwest, of which I do not have any information about. The FOIA clearly allows that every American has a reasonable expectation of privacy and that any company who gathers information on us, we have access to their names and or the information they gather.

My questions to your office are:

- 1.) If Qwest is permitting a private company access to phone calls made by private citizens, then who is this company?
- 2.) Under what authority does this company have to violate FCC and Privacy laws to listen in and retain such information?
- 3.) Which federal agency, if any, has the willingness to overcome campaign finance money dilemma to enforce the law being violated?
- 4.) Does DPS receive federal funding to operate their "clearing house" facility under Gall McBride?

FCC

I find humor in your suggestions of the various state areas to contact to report this most serious situation. Jane Hull has shown absolutely no concern over identified mentally impaired children in our education system, or worst in the nation education system and or any mental health care issues. The attorney general has even less concern. The ACC has no idea what I am talking about and Qwest has a general Bill Clinton attitude about the law and our constitution. Why should they, in a state that sells everything, to include lost children. Our last white slavery case was resolved with probation for the organized crime person found guilty.

The only caring organization in my dilemma over my runaway daughter has been the National Center For Missing and Exploited Children, who have listened in astonishment to learn that Arizona officials lied to them about having a contact person for "clearing house" subpoena powers, the PPD does not afford them to parents with identified children under the IDEA and or ADA and the lack of concern by the governor. I tried to rap it all up as Arizona's definition of "western justice". We remain one of the worst places to raise children.

Sincerely,


Michael R. Turney

65425

Decision No. _____

EXHIBIT A-17

65425

Decision No. _____

JOHN SHADEGG
4TH DISTRICT, ARIZONA
WASHINGTON, D.C. OFFICE:
630 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-3361
FAX: (202) 225-3482
ARIZONA OFFICE:
201 EAST BETHANY HOME ROAD
SUITE C178
PHOENIX, AZ 85012
(602) 263-5300
FAX: (602) 248-7733
e-mail: jshadegg@mail.house.gov



Congress of the United States
House of Representatives
Washington, DC 20515-0304

COMMITTEE:
COMMERCE
SUBCOMMITTEE:
ENERGY AND POWER
FINANCE AND HAZARDOUS
MATERIALS
HEALTH AND ENVIRONMENT
REPUBLICAN POLICY COMMITTEE
JUNIOR CLASS REPRESENTATIVE
ASSISTANT WHIP

September 4, 2001

Ms. Diane Atkinson
Congressional Liaison
Federal Communications Commission
445 12th St SW
Washington, D.C. 20554

RE: Mr. Michael Turney
17217 N 34th St
Phoenix, AZ 85032-2071

Dear Ms. Atkinson:

One of my constituents has contacted my office regarding his missing daughter and his difficulty obtaining the telephone number she called you from on May 17, 2001. Enclosed is his correspondence for your review.

Please address Mr. Turney's concerns and respond to Bruce Raden in my Phoenix office. I expect no action to be taken in this matter that is inconsistent with existing rules and regulations or that could be construed as inappropriate or unfair. If you need additional information, please call my office at (602) 263-5300.

Thank you for your courtesy in this request.

Sincerely,

John Shadegg
Member of Congress

JBS:br

10. MAY 02 11.01 AM

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Decision No. _____

CIB
Other consumer
info. 3143

EXHIBIT A-18



Federal Communications Commission
Consumer Information Bureau
Washington, D.C. 20554

OCT 3 2001

Control No. 0103143RO

The Honorable John Shadegg
Member, U. S. House of Representatives
301 East Bethany Home Road, Suite C178
Phoenix, AZ 85012

Dear Congressman Shadegg:

Thank you for your letter on behalf of your constituent, Mr. Michael Turney, regarding his difficulty in obtaining telephone information from his carrier, of a call placed to his home by his daughter.

The provisions described in U.S.C. Title 47, Section 222, Privacy of Customer Information, protects your constituent's privacy rights, it does not require a telecommunications carrier to provide information pertaining to callers to his residence. Information as such must be requested through a subpoena by court or enforcement order. According to Qwest's response, provided by your constituent, the request for the caller information was provided to your constituent, however, obtaining this information would be of a time-consuming nature due to the fact that this information was not kept by Qwest within the normal course of business. Qwest has provided the information requested and has waived the charge for the plaintiff. Unfortunately, the Commission does not dictate or enforce where telecommunications carriers house their records, as long as they are in compliance with Commission rules in providing this information.

There are however, some optional features that your constituent may wish to utilize in future to obtain caller information such as the Star 69, Caller ID, or Call Trace. These features are available through his local telephone service provider for an additional fee. To learn more about Caller ID services offered in your area, contact your local telephone company or your state public service commission.

The Commission seeks to ensure that consumers are fully informed about their choices in telecommunications services. The Commission also seeks to inform consumers about their rights regarding common carrier practices that may violate the Communications Act or other federal or state regulations. In determining whether to take enforcement action or other action in any particular situation, the Commission may consider various factors, including the type of violation alleged, economic harm to consumers, and the probability of preventing future unlawful conduct. Letters from consumers provide valuable information that is frequently used to develop or support Commission initiatives for consumers and for enforcement purposes. Information compiled by the Consumer Information Bureau is shared with the Enforcement Bureau, which may choose to pursue enforcement action against violators. We invite you to visit the Consumer Information Bureau's Internet web site at <http://www.fcc.gov/cib>.

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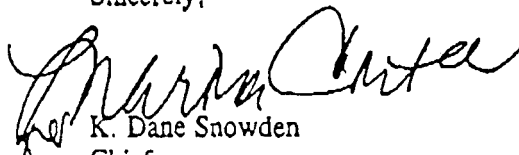
The Honorable John Shadegg

Page 2

Additional information on telephone-related issues is available to the public by calling the Commission's Consumer Center toll free at 1-888-CALL-FCC or "Fax on Demand" at 202-418-2830. Information on telephone-related issues can also be accessed via the Internet. The Commission's Home Page is located at <http://www.fcc.gov>.

We appreciate your inquiry. Please do not hesitate to contact us if you have further questions.

Sincerely,



K. Dane Snowden
Chief
Consumer Information Bureau

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Decision No. _____

EXHIBIT A-19

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Decision No. _____

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BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL
Chairman
JIM IRVIN
Commissioner
MARC SPITZER
Commissioner

MICHAEL R. TURNEY,
Complainant,
vs.
QWEST CORPORATION,
Respondent.

DOCKET NO. T-01051B-02-0193
AFFIDAVIT OF CRAIG A. WISEMAN

STATE OF COLORADO)
County of Denver) ss.

Craig A. Wiseman, being first duly sworn upon his oath deposes and says that:


1. I have personal knowledge of the matters and facts stated in this affidavit and, if sworn as a witness, am competent to testify with regard to all such matters.
2. I am a Staff Advocate in the Local Networks Legal Issues Organization at Qwest Corporation ("Qwest").
3. Part of my duties and responsibilities include providing expert technical witness testimony on technical issues related to Qwest's local switching network, such as the network switching functions used to provide the Last Call Return capability. I have personal knowledge of the matters discussed below by virtue of my job duties and responsibilities and direct involvement in the events described.
4. Qwest's network does temporarily store telephone number information in the Calling Party Number ("CPN") parameter of its signaling system 7 messages and such information is sometimes available to subscribers of last call return. Not all numbers are accessible by end users. Not all calls entering the Qwest network have the CPN parameter

1 populated. Even if the parameter is populated, if there is a concomitant "block" code associated
2 with the number, the CPN will not be provided to a Qwest end user if the called party activates
3 last call return.

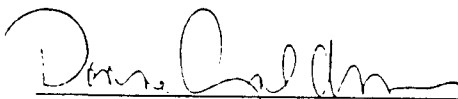
4 5. If the call originated from a payphone, then the call is exempt from the federal
5 requirement to pass CPN when feasible.

6 Affiant has read the foregoing Affidavit, knows the contents thereof; and states that the
7 foregoing is true according to his best knowledge, information, and belief.

8
9 DATED this 2nd day of May, 2002.

10
11 
12 Craig A. Wiseman

13 SUBSCRIBED AND SWORN TO before me this 2nd day of May, 2002.

14 

15 My Commission Expires:

16 4/5/04

